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UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

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|---------------------------|---|---------------------------------|-------|
| UNITED STATES OF AMERICA, |) | Case No: | |
| |) | <u>CR</u> | - VAP |
| Plaintiff(s), |) | | |
| |) | CRIMINAL MOTION AND TRIAL ORDER | |
| v. |) | | |
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| Defendant(s). |) | | |
| _____ |) | | |

The above matter is set for trial before the Honorable
Virginia A. Phillips, Courtroom 2, United States District Court,
3470 Twelfth Street, Riverside, CA 92501.

Motions:

1. All pre-trial motions, including any notice of F.R.E.
404(b) evidence, shall be filed and served no later than
_____. (The Monday three weeks before trial.)

Oppositions shall be filed on _____ (the

Monday two weeks before trial). Replies, if any, must be filed on or before the Monday one week before the Monday hearing date.

2. Hearings on motions and Pre-Trial Conference are set for _____ at 9:00 a.m. (the Monday one week before trial).

3. Trial is set for _____ at 8:30 a.m.

4. All papers shall be served personally or faxed to opposing counsel no later than 4:30 p.m. on the day of filing, with conformed courtesy copies delivered to Judge Phillips' "Courtesy Box", located outside of Courtroom 2, United States District Court, 3470 Twelfth Street, Riverside, CA 92501.

Discovery and Notice:

5. Counsel for the Government and counsel for the defendant shall comply promptly with discovery and notice matters pursuant to Fed. R. Crim. P. 12, 12.1, 12.2, 12.3, 15, and 16.

Trial Preparation:

6. Counsel for the Government shall file with the Court *in camera* (under seal) all statements of all witnesses to be called by the Government in its case-in-chief. The statements shall be filed at least ten (10) calendar days before trial.

7. If counsel need to arrange for the installation of their own equipment, such as video monitors, tape or compact disk players, notebooks or overhead projectors, counsel shall notify the Courtroom Deputy Clerk no later than 4:00 p.m. two (2) days before trial so that the necessary arrangements can be made.

8. Counsel shall arrive at the Courtroom not later than 8:30 a.m. each day of trial.

1 9. On the first day of trial, counsel for the Government
2 shall present the Courtroom Deputy Clerk with the following
3 documents:

4 a. Three copies of the Government's witness list;

5 b. Three copies of the Government's exhibit list in the
6 form specified by Local Rule 9.9 (Civil);

7 c. All of the Government's exhibits, with official
8 exhibit tags affixed, bearing the same number as that shown on the
9 exhibit list. The defendant's counsel need not deliver his/her
10 exhibits to the Clerk on the first day of trial; however,
11 defendant's counsel is responsible for affixing exhibit tags,
12 complete with the case name and case number, to each exhibit to be
13 used in defendant's case. Exhibits shall be numbered 1, 2, 3, 4,
14 etc. If an enlargement of an existing exhibit is to be used,
15 counsel shall designate it with the number of the original exhibit
16 followed by an "A." Counsel for the Government should be aware
17 that the Court will order exhibits such as firearms, narcotics,
18 etc., to remain in the custody of the agent during the pendency of
19 the trial. The agent will be required to sign the appropriate form
20 to take custody of the exhibits. It shall be the responsibility of
21 the agent to produce the items for court, secure them at night, and
22 guard them while in the courtroom. Exhibit tags are available at
23 the filing window in the Clerk's Office, Room 134; and

24 d. A bench book containing a copy of all exhibits that
25 can be reproduced. Counsel for the Government shall mark each
26 exhibit with tabs indicating the exhibit number. The defendant's
27 counsel shall provide the Court with a copy of defendant's exhibits
28 as introduced.

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2 10. Trial days are usually Tuesday through Friday, 9:00 a.m.
3 to 4:00 p.m., with a morning and an afternoon break and a lunch
4 recess from 12:00 to 1:15 p.m.

5 11. At the pretrial conference, the Court will give counsel
6 an opportunity to discuss administrative matters and anticipated
7 procedural or legal problems. If additional issues arise during
8 the trial, counsel shall inform the Courtroom Deputy Clerk.

9 Jury Instructions and Verdict Forms:

10 12. Jury instructions in the form described in paragraph 13
11 shall be submitted no later than the Wednesday of the week prior to
12 pretrial conference. Counsel need only submit proposed substantive
13 instructions. The Court will formulate general instructions based
14 primarily on the format set out in Committee on Model Jury
15 Instructions for the Ninth Circuit, *Manual of Model Criminal Jury*
16 *Instructions for the Ninth Circuit* 2000 edition).

17 13. The parties must submit joint jury instructions. In
18 order to produce the instructions, the parties shall meet and
19 confer sufficiently in advance of the required submission date with
20 the goal of agreeing upon instructions and verdict forms. The jury
21 instructions shall be submitted as follows: (1) joint jury
22 instructions, i.e., those instructions to which all parties agree;
23 and (2) disputed jury instructions, i.e., those instructions
24 propounded by a party to which another party objects. The party
25 objecting to the disputed instructions must state the reasons for
26 the objection and provide a proposed alternative instruction with
27 supporting authority. Each requested jury instruction shall be
28 numbered and set forth in full on a separate page, citing the

1 authority or source of the requested instruction except on the
2 "jury copy" described below.

3 14. The Court will send a copy of the jury instructions into
4 the jury room for use by the jury during deliberations.
5 Accordingly, in addition to the file copies, an extra set of the
6 proposed instructions shall be submitted to the Court with only the
7 text of an instruction on each page (i.e., no titles, supporting
8 authority, indication of party proposing, etc). This will be
9 referred to as the "jury copy" of the instructions.

10 15. The Court prefers counsel to use the instructions from
11 Committee on Model Jury Instructions for the Ninth Circuit, *Manual*
12 *of Model Criminal Jury Instructions for the Ninth Circuit* (2000
13 edition).

14 16. An index page shall accompany all jury instructions that
15 are submitted to the Court. The index page shall indicate the
16 following:

- 17 a. The number of the instruction;
- 18 b. A brief title of the instruction;
- 19 c. The source of the instruction; and
- 20 d. The page number of the instruction.

21 EXAMPLE:

| <u>Number</u> | <u>Title</u> | <u>Source</u> | <u>Page Number</u> |
|---------------|------------------|---------------|--------------------|
| 1 | Duty of the Jury | 9th Cir. 1.01 | 1 |

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24 17. If counsel seek a special verdict, counsel shall follow
25 the procedure set forth in paragraph 13 in order to formulate a
26 joint proposed verdict form. Counsel shall submit the proposed
27 verdict form with the proposed jury instructions.

1 18. Counsel shall provide to the Court a floppy disk or
2 compact disk containing the proposed jury instructions and the
3 proposed special verdict, formatted in WordPerfect 6.1 (or a more
4 recent version of WordPerfect) along with the hard copy.

5 Instructions Governing Procedure During Trial:

6 19. Counsel shall rise when addressing the Court, including
7 when objecting to opposing counsel's questions. In jury cases,
8 counsel shall rise when the jury enters or leaves the courtroom.

9 20. Counsel shall not refer to or address their clients by
10 their first names during trial.

11 21. Counsel shall not discuss the law or argue the case in
12 opening statements.

13 22. When objecting, counsel shall state only "objection" and
14 the legal ground for the objection (e.g., hearsay, irrelevant,
15 etc.). Court permission is needed to argue an objection, and the
16 argument must be outside the hearing of the jury.

17 23. The Court reserves the time from 8:30 to 9:00 a.m. to
18 handle legal and administrative matters outside the presence of the
19 jury. The trial before the jury will commence promptly at
20 9:00 a.m. Counsel shall anticipate matters which may need
21 discussion or hearing outside the presence of the jury and to raise
22 them during this period.

23 24. Counsel shall not approach the clerk or the witness box
24 without the Court's permission. Counsel shall question witnesses
25 while standing at the lectern.

26 25. Counsel shall address all remarks to the Court. Counsel
27 shall not directly address the Courtroom Deputy Clerk, the
28 Courtroom Reporter, or opposing counsel. Counsel must ask the

1 Court for permission to talk off the record in order to speak with
2 opposing counsel. Counsel shall address all requests for the re-
3 reading of questions or answers, and all requests to have an
4 exhibit placed in front of a witness, to the Court.

5 26. Counsel shall not make an offer of stipulation unless
6 he/she has conferred with opposing counsel and believes that the
7 stipulation will be accepted. Any stipulation of fact will require
8 the defendant's personal concurrence and shall be submitted to the
9 Court in writing for approval. A proposed stipulation should be
10 explained to him/her in advance.

11 27. While Court is in session, counsel may not leave the
12 counsel table to confer with investigators, secretaries, or
13 witnesses in the back of the courtroom unless the Court grants
14 permission to do so in advance.

15 28. When a party has more than one lawyer, only one of the
16 lawyers may conduct the examination of a given witness and only
17 that same lawyer may handle objections during the testimony of that
18 witness.

19 29. If a witness was on the stand before a recess or
20 adjournment, counsel shall have the witness back on the stand and
21 ready to proceed when Court resumes.

22 30. If there is more than a brief delay between witnesses,
23 the Court may deem that the party has rested.

24 31. The Court attempts to cooperate with witnesses and will,
25 except in extraordinary circumstances, accommodate them by
26 permitting them to be examined out of sequence. Counsel should
27 discuss any scheduling issues with opposing counsel. If there is
28 an objection, confer with the Court in advance.

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Dated: October 23, 2003

VIRGINIA A. PHILLIPS
United States District Judge